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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,207	03/28/2001	Brewster P. Kahle	ALEXAI.003A	3849

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EXAMINER

MCALLISTER, STEVEN B

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/820,207

Applicant(s)

KAHLE ET AL.

Examiner

Steven B. McAllister

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31, 38-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/11/2001, 3/28/01.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 10 recites the subcombination of a method providing product-related information, but the body of the claim recites the combination with that method and a second subcombination, a method of collecting product information. It is not clear whether Applicant intended to claim the combination or the subcombination. The claims should be amended to clearly recite either the combination or subcombination in both the preamble and body. In examining the claims, it was assumed that the subcombination was claimed.

Claim 20 is further rejected as indefinite. (D) of claim 1 recites presenting data in response to "at least ©", but claim 20 interjects several intervening steps. As modified by claim 20, (D) no longer presents data in response to (C ), but instead presents data in response to (K). Due to the speculation required as to the scope of the claim, lack of an art rejection should not be viewed as an indication of allowable subject matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 6-20, 27-31 are rejected under 35 U.S.C. 102(a) as being anticipated by mySimon Flyswat.

Mysimon shows all elements of the claim including displaying a user selectable display element (the selectable highlighting of the text).

As to claim 6, Mysimon shows modifying the display of the first webpage.

As to claims 7 and 8, Mysimon shows that the first display element is a modified representation of the first product comprising highlighted text with a "+" representing the first product.

As to claims 21 and 22, Mysimon shows modifying the first web page by providing a window for presenting the information.

As to claims 27-30, all elements of the claims are shown.

As to claim 31, Mysimon shows that the display element identifies links to other web pages and where a portion of information is on the other web sites.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 19, 23-26, 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over mySimon Flyswat.

As to claims 4, 5, 19, 23 and 38 Mysimon shows all elements of the claim except the the determining that the web site shows a product is conducted by transmitting and identification of the web page to the product data server, and receiving from the product data server an identification of the first product. However, it is notoriously old and well known in the art to do so. It would have been obvious to one of ordinary skill in the art to identify products by sending web page information to the server and receive identification of products at the user computer from the server in order to avoid having to maintain and update a large database on the user computer, allow for a "skinny" client, and facilitate easy user downloading of software.

(It is noted that claim 23 is rejected under 35 USC 102 since it depends from claim 9 and is being interpreted as the subcombination only. However, in order to promote prosecution, the aspects related to the subcombination are dealt with).

As to claim 24, it is noted that all additional claimed elements are shown. It is noted that it is inherent that an indication of selection of the display element is sent to

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the data server, since it is necessary for the server to receive this information in order to send the product information.

As to claims 2, 25, 39, Mysimon shows all elements of the claims except that selection of a user selectable display element causes the product to be added to a virtual shopping cart. However, providing and selecting selectable display elements which when selected add an object to the shopping cart is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the method by providing such an element in order to ease purchasing and to provide a familiar online purchasing protocol.

As to claims 3, 26, 40, Mysimon shows all elements of the claims except that selection of a user selectable display element causes the product to be purchased. However, providing and selecting selectable display elements which when selected cause an item to be purchased. It would have been obvious to one of ordinary skill in the art to further modify the method by providing such element in order to ease purchasing and to provide a familiar online purchasing protocol.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052. The examiner can normally be reached on M-Th 8-6:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven B. McAllister